

**BEFORE THE MONTGOMERY COUNTY
BOARD OF APPEALS
OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
Stella B. Werner Council Office Building
Rockville, Maryland 20850
(240) 777-6660**

IN THE MATTER OF:

Daniel and Kathleen Albert

Petitioners

Daniel Albert

Kathleen Albert

For the Petitioners

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Board of Appeals No. S-2880
(OZAH No. 15-05)

Report and Recommendation by: Lynn A. Robeson, Hearing Examiner

HEARING EXAMINER'S REPORT AND RECOMMENDATION

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I. STATEMENT OF THE CASE

Daniel and Kathleen Albert seek approval of a special exception under Zoning Ordinance §59-G-2.49 to allow an equestrian facility in a residential zone. The subject property is located at 14400 Chrisman Hill Drive, Boyds, Maryland. The property is also described as Lot 22, Block A in the Black Hill Estates Subdivision.

On November 10, 2014, the Board of Appeals issued a notice of a public hearing before the Hearing Examiner on March 16, 2015.¹ Exhibit 13. Staff of the Montgomery County Planning Department, in a report dated March 5, 2015 (Staff Report), recommended approval of the petition with four (4) conditions. Exhibit 14(a). The Planning Board recommended approval on March 12, 2015, for the reasons set forth in the Staff Report.

The Staff Report advises that a mapping error occurred in the last comprehensive rezoning, which rezoned the property to the R-200 rather than the intended RE-1 Zone. Exhibit 14(a), p. 1. Because of this, the Hearing Examiner requested Staff to provide information as to whether the proposed use complied with the standards of the RE-1 Zone as well as the R-200 Zone. On March 10, 2015, Staff supplemented their Report, finding that the use complied with the standards of both the RE-1 Zones and the R-200 Zones. The property is also subject to an existing special exception for an accessory apartment. As this was not reflected in Staff's discussion of the standard for approval contained in §59-G-1.21(a)(7), the Hearing Examiner requested Staff to reflect the additional special exception in their analysis of this standard.² Exhibit 14(a). Staff provided a revised recommendation on

¹The Board mailed two hearing notices on November 10, 2014. The first notice (Exhibit 12(b)) contained non-substantive typographical errors that were corrected in the second notice (Exhibit 13).

² Section 59-G-1.21(a)(7) states: "Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area."

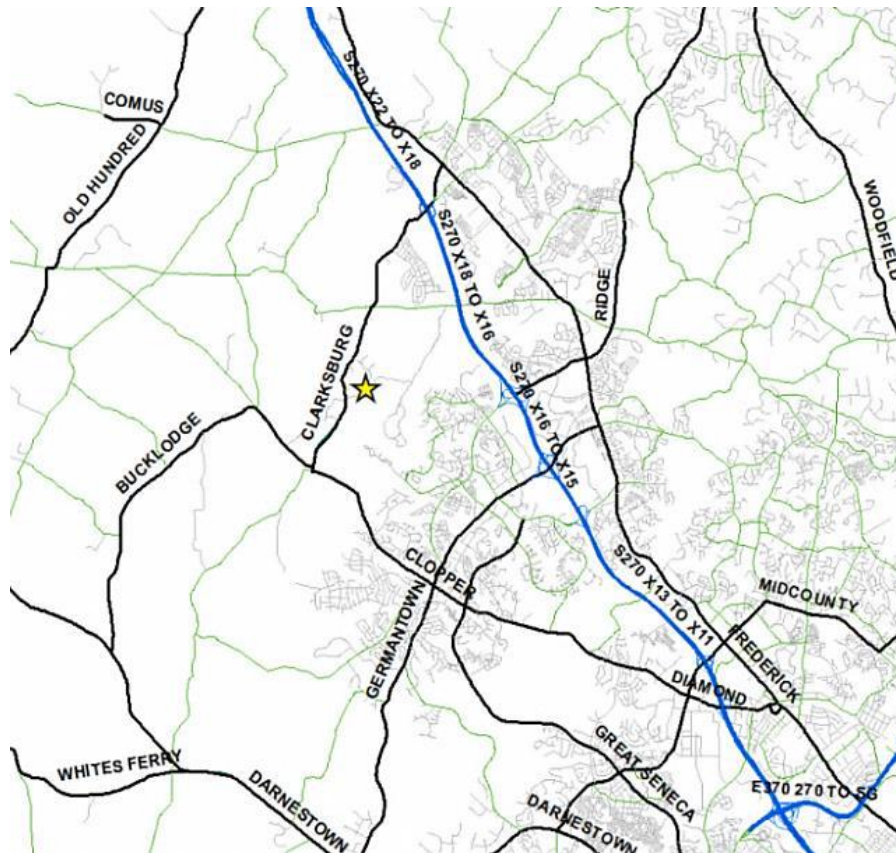
March 10, 2015, finding that the proposed use did not result in an overconcentration of special exception uses in the area. *Id.* The hearing was held on March 16, 2015, without opposition, and the record was held open until March 26, 2015, to receive the transcript. T. 12. For the reasons set forth below, the Hearing Examiner recommends approval of the requested special exception, subject to the conditions set forth in Section V of this Report.

II. FACTUAL BACKGROUND

A. The Subject Property and Its Current Use

The subject property lies at the southern terminus of Chrisman Hill Drive, approximately 2,500 feet south of its intersection with Clarksburg Road (MD 121) near the intersection of Clarksburg and Clopper Roads. Exhibit 14(a), p. 1. A location map (included in the Staff Report (Exhibit 14(a), p. 1), shows the location of the subject property (on the following page.) The property is located approximately 300 feet west of Black Hill Regional Park. According to Staff, the subdivision was designed to facilitate ownership of horses and has bridle trails leading to the park. Exhibit 14(a).

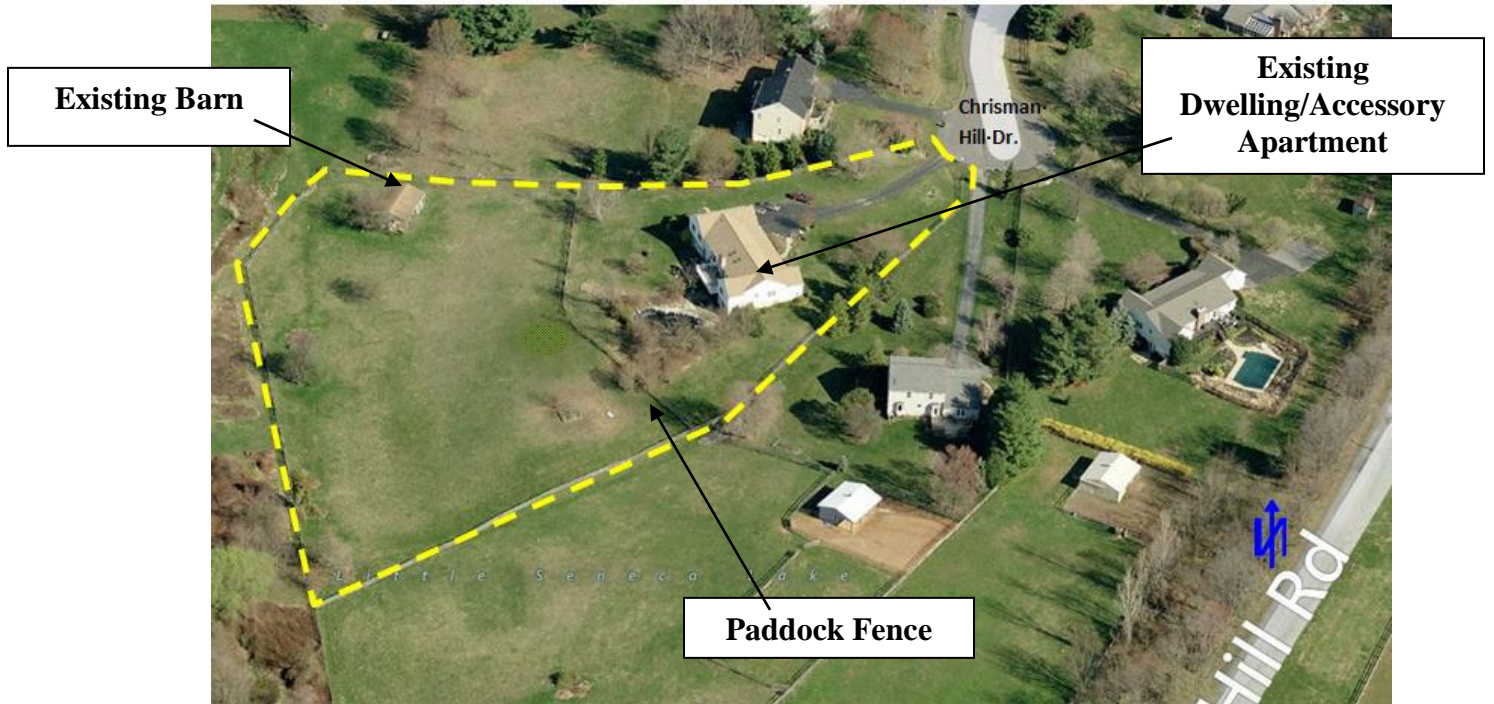
Staff reports that the property consists of approximately 2.67 acres in an irregularly shaped lot. The topography slopes down from east to west towards a small stream located on the adjoining property. A 4,116-square foot single-family dwelling is located near the terminus of Chrisman Hill Drive; the front yard has some landscaping and the balance of the property is covered in grass. An existing barn containing two stalls is located in the rear of the property, within a large paddock with a split rail fencing separating it from the dwelling and adjoining properties. Photographs included in the Staff Report and submitted by the Petitioners show existing site conditions (Exhibits 9, 14(a), pp. 5-6), depicted on page 5-6.



**General Vicinity Map
Exhibit 14(a)**

The property is subject to an existing special exception for an accessory apartment (S-2551) approved in 2003. The Board's approval limits occupancy to two persons.³ Exhibit 11. Staff advises that the apron of the 135-foot driveway has been widened to accommodate two vehicles parked side by side. Six vehicles may be parked on the property, two in the garage and the balance within the driveway. Exhibit 14(a), p. 5. Existing lighting includes two 45-watt spotlights located under the roof of a corner of the barn. Exhibit 9.

³ Modification of the special exception approval for the accessory apartment if required by the Board of Appeals is a recommended condition of approval for this special exception, *see* Part V of this Report, *supra*.



**Aerial View
Exhibit 14(a)**



**View from Chrisman Hill Drive
Exhibit 14(a)**



**Existing Barn
Exhibit 9**

B. The Surrounding Neighborhood

Staff delineated the boundaries of the surrounding neighborhood for the purpose of determining compatibility of the proposed use with those directly impacted. These boundaries include properties fronting Chrisman Hill Drive to the north, Clarksburg Road to the west, and Black Hill Road to the south and east.⁴ Exhibit 17, p. 5. These boundaries are shown in the Staff Report (Exhibit 14(a), p. 5), below:



Staff characterized the area as consisting of lots larger than typical R-200 lots containing single-family residences in the R-200 Zone. Two of the lots immediately east of the property have approved special exceptions for private riding stables. The subdivision was designed as an equestrian community containing bridle trails that connect to Black Hill Regional Park. Exhibit 14(a), p. 6.

⁴Staff did not call all of the boundaries by name; the Hearing Examiner has done so by reference to Google Maps and the picture contained in the Staff Report.

Having no evidence to the contrary, the Hearing Examiner accepts Staff's delineation of the neighborhood. She finds that the area is characterized by single-family residential lots of a size more typical of the RE-1 Zone (i.e., 40,000 square feet and above), designed to accommodate equestrian use by lot owners.

C. The Master Plan

The subject property lies within Cabin Branch neighborhood designated in the *1994 Clarksburg Master Plan* (Master Plan or Plan). Exhibit 14(a), p. 6. Staff advises that the Plan contains the following objective for properties in the vicinity of the subject property:

South of West Baltimore Road, the key planning objective along MD 121 is to maintain the present rural character so a strong transition is provided between the Cabin Branch and Ten Mile Creek East Neighborhoods and the rural community of Boyds. For this reason, a low density residential land use pattern (one dwelling unit per one acre) is recommended.

Exhibit 14(a), p. 6 (quoting, *1994 Clarksburg Master Plan*, p. 69). Staff concluded that the Master Plan recommended that the Black Hills Estates Subdivision be reclassified from the R-200 Zone to the RE-1 Zone to maintain a low density, residential land use pattern, and that the proposed use complies with this objective. Having no evidence to the contrary, the Hearing Examiner agrees with Staff and the Planning Board that the proposed special exception will comply with the Master Plan.

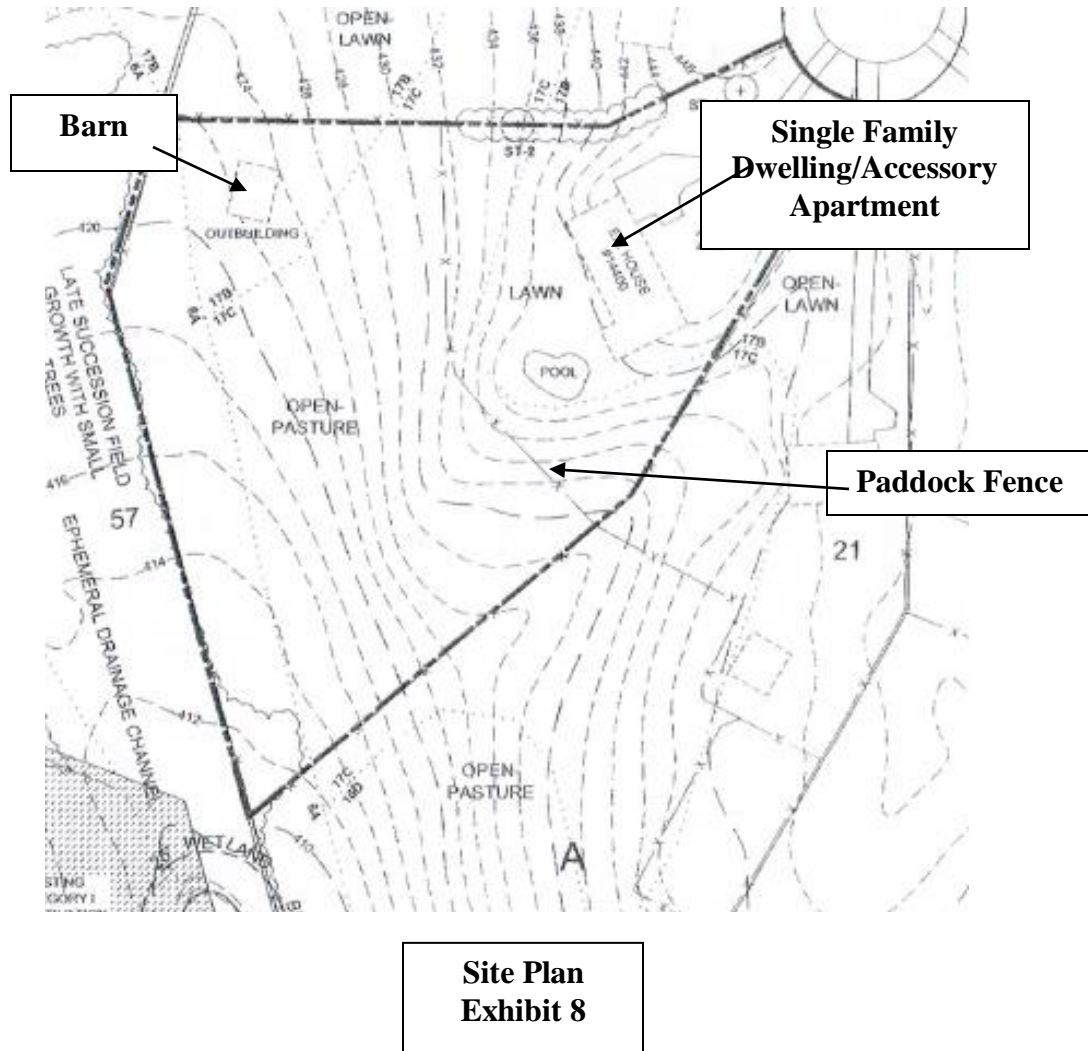
D. The Proposed Use

Petitioners propose to stable two horses for personal use in a paddock of approximately 2 acres located to the rear of the single-family dwelling. The paddock includes an existing outbuilding to house the horses. An aerial photograph from the Staff Report shows the site area to be dedicated to the proposed use (Exhibit 14(a), p. 14, on the next page).

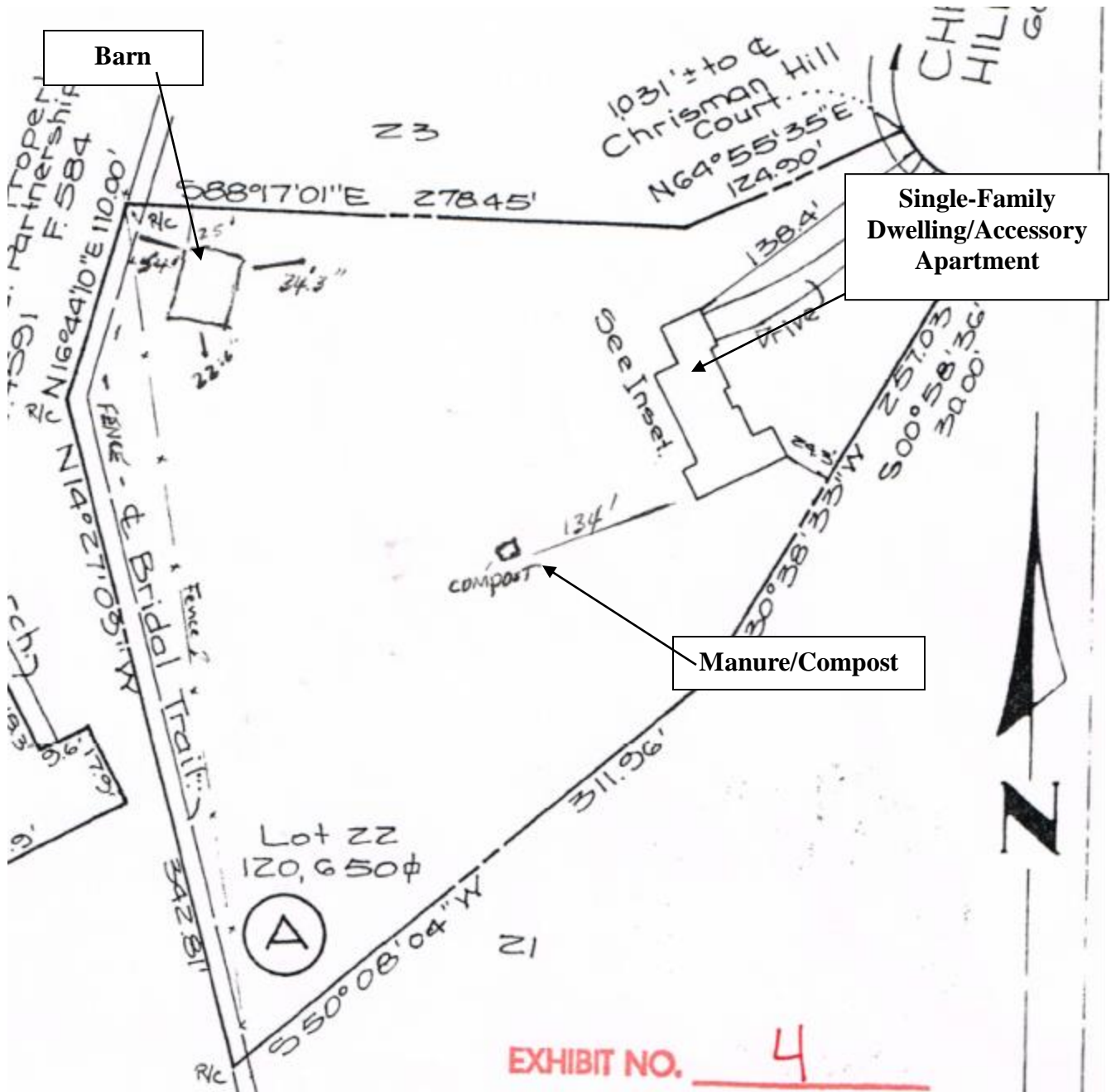


**Aerial Photograph Showing Paddock
Exhibit 14(a), p. 14**

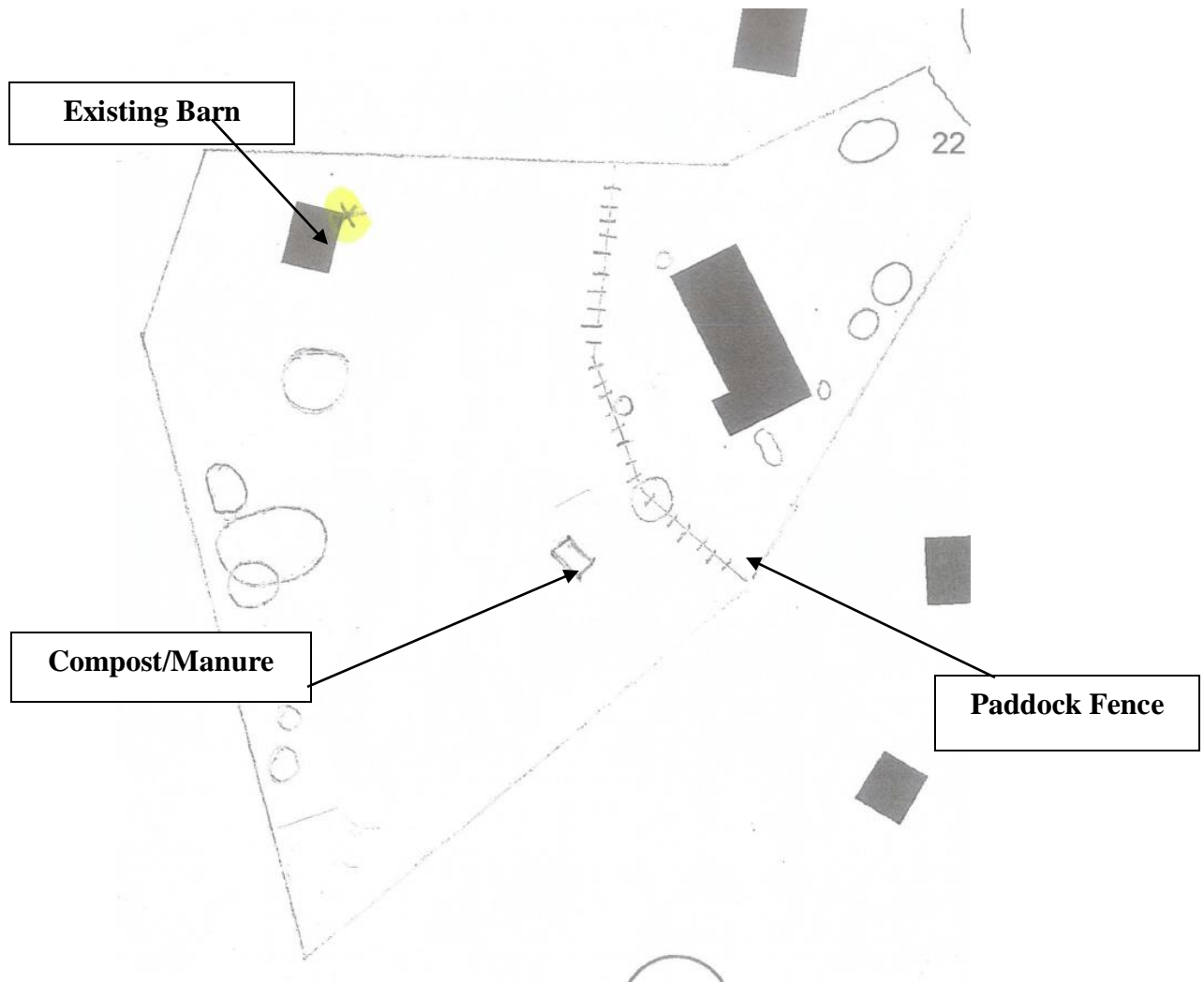
An engineered drawing from the subdivision's Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) shows the location of the barn, dwelling, and paddock (Exhibit 8, on the following page). Setbacks from the barn and neighboring property are shown on another drawing submitted by the Petitioners (Exhibit 4, shown on page 10). It also shows the relationship of the single-family dwelling to the compost area to be used for manure. Because different elements required for a site plan are included on each exhibit, the Hearing Examiner considers both Exhibits 4 and 8 to be the site plan recommended for approval in this case. Petitioners propose two 45-watt floodlights on the corner of the barn (Exhibit 5, shown on page 11), which currently exist.



A statement submitted by the Petitioners notes that covenants in the Black Hills Estates subdivision provide, “horses may be kept, provided they are not kept, bred or maintained for any commercial purposes.” Exhibit 3. Petitioners do not propose any commercial use of the property. As noted, a paddock area will separate the residence from the stable and paddock. The paddock fence also surrounds the perimeter of the paddock, separating it from adjoining properties.



Site Plan
Exhibit 4



- Existing trees and shrubs on property
- No additional lighting will be needed. -
- HH- Fence
- ★ - light - 2-45 WATT spot lights
- ≡ - proposed manure pit location

**Lighting and Landscape Plan
Exhibit 5**

Technical Staff recommended approval of the petition with the following conditions (Exhibit 14(a), p. 3:

1. No more than two horses may be kept on the property;
2. All horses on site must belong to the owners of the Property;
3. The Applicants must not rent any of the horses in the equestrian facility;
4. No equestrian events will be held on the subject property.

On March 12, 2015, the Planning Board recommended approval of the petition for the reasons stated by Staff in their Report. The Planning Board also recommended approval of the corrective map amendment to change the zoning to RE-1 on the same date. Exhibit 19.

E. Traffic Impacts

Technical Staff advises that the proposed use will have no traffic impact because no new structures are proposed. The Hearing Examiner also presumes that there will be no traffic impact because the equestrian facility may be used only for personal purposes, and no equestrian events may be held on the property. Staff also concluded that existing public facilities (storm drainage, fire, and police protection, are adequate to serve the propose use. Because the use generates fewer than 30 peak hour trips, it is exempt from Local Area Transportation Review (LATR) and is not subject to Transportation Policy Area Mobility Review according to the current Subdivision Staging Policy. Exhibit 14(a), p. 12.

F. Environmental Impacts

Petitioner does not propose any external changes to the site. Technical Staff advises that the property is exempt from the Forest Conservation Law and there are no environmental issues associated with the site. Exhibit 14(a), p. 3. Based on this evidence, the Hearing Examiner finds that Petitioner's request will have no adverse environmental impacts.

III. SUMMARY OF THE HEARING

A. Petitioner's Case

Both Daniel and Kathleen Albert testified in support of the petition at the public hearing. They adopted the findings and recommendations of the Staff Report as their own testimony and agreement to abide by the four conditions recommended. T. 5, 8-9. They also agreed to abide by an additional condition requiring them to seek a modification of their accessory apartment special exception to reflect this special exception on the subject property (if required by the Board of Appeals), as well as other standard conditions of approval recited by the Hearing Examiner. T. 8-9. They testified that the photographs and plans submitted accurately depict the subject property and the proposed use. T. 6-8.

III. FINDINGS AND CONCLUSIONS

A special exception is a zoning device that authorizes certain uses provided that pre-set legislative standards and conditions are met, that the use conforms to the applicable master plan, and that it is compatible with the existing neighborhood. Each special exception petition is evaluated in a site-specific context because it might be appropriate in some locations but not in others. The zoning statute establishes both general and specific standards for special exceptions, and the Petitioner has the burden of proof to show that the proposed use satisfies all applicable general and specific standards. Staff concluded that Petitioner will have satisfied all the requirements to obtain the special exception, if Petitioners comply with the recommended conditions. Exhibit 14(a).

Weighing all the testimony and evidence of record under a “preponderance of the evidence” standard (Code 59-G-1.21(a)), the Hearing Examiner concludes that the instant petition meets the general and specific requirements for the proposed use, as long as

Petitioner complies with the recommended conditions set forth in Part V, below.

A. Standard for Evaluation

The standard for evaluation prescribed in Code Section 59-G-1.21 requires consideration of the inherent and non-inherent adverse effects of the proposed use, at the proposed location, on nearby properties and the general neighborhood. Inherent adverse effects are “the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations.” Code, Section 59-G-1.21. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are “physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site.” *Id.* Non-inherent adverse effects, alone or in conjunction with inherent effects, are a sufficient basis to deny a special exception.

Technical Staff have identified seven characteristics to consider in analyzing inherent and non-inherent effects: size, scale, scope, light, noise, traffic and environment. For the instant case, analysis of inherent and non-inherent adverse effects must establish what physical and operational characteristics are necessarily associated with an equestrian facility in a residential zone. Characteristics of the proposed equestrian facility that are consistent with the “necessarily associated” characteristics will be considered inherent adverse effects, while those characteristics of the proposed use that are not necessarily associated with equestrian facilities, or that are created by unusual site conditions, will be considered non-inherent effects. The inherent and non-inherent effects thus identified must then be analyzed to determine whether these effects are acceptable or would create adverse impacts sufficient to result in denial.

Technical Staff lists the following inherent characteristics of equestrian facilities in residential zones (Exhibit 14(a), p. 7):

- (1) A barn with low level lighting;
- (2) A fenced paddock;
- (3) Sight, odor, and sounds associated with horses;
- (4) The provision of sufficient parking;
- (5) A manure/compost area; and
- (6) A single-family dwelling in which the owners of the horses live.

Staff concluded that all impacts of the use proposed in this petition are inherent to the use proposed here because there will be only two horses housed in an existing structure within a subdivision designed for this purpose. Staff also points to the fact that lot is above the minimum 2-acre size required for this type of facility.

The Hearing Examiner agrees with Staff that most of the impacts identified by Staff are inherent to the use but finds that one non-inherent condition exists—the additional special exception for an accessory apartment on the same property. Staff concluded that this non-inherent condition did not warrant denial of the application because the proposed use adds no traffic and is consistent with the residential character of the community, which is designed for equestrian use. Exhibit 16. The Hearing Examiner agrees that an additional special exception for the equestrian facility on the property combined with an existing accessory apartment special exception does not justify denial of the petition for the reasons stated by Staff, and if required by the Board, the other special exception is modified to reflect this use so that the Board may place conditions on the other use if needed.

B. General Standards

The general standards for a special exception are found in Section 59-G-1.21(a). The Staff Report and the Petitioner's written evidence and testimony provide sufficient evidence that the general standards would be satisfied in this case, as outlined below.

Sec. 59-G-1.21. General conditions.

§5-G-1.21(a) -*A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:*

(1) Is a permissible special exception in the zone.

Conclusion: An equestrian facility is a permissible special exception in both the R-200 and RE-1 Zones, pursuant to Code § 59-C-1.31.

(2) Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.

Conclusion: The proposed use complies with the specific standards set forth in § 59-G-2.49 for an equestrian facility in a residential zone, as outlined in Part C, below.

(3) Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the Commission. Any decision to grant or deny special exception must be consistent with any recommendation in a master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.

Conclusion: The subject property is governed by the 1994 Clarksburg Master Plan. For the reasons set forth in Part II.C of this Report, the Hearing Examiner finds that the use complies with the Master Plan.

- (4) *Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses. The Board or Hearing Examiner must consider whether the public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the special exception application was submitted.*

Conclusion: Staff determined that the petition meets this standard because it requires no new construction or modification and will not result in increased traffic and noise. The Hearing Examiner agrees, noting that the subdivision was specifically designed for this use and two of the Petitioners' neighbors have private riding stables.

- (5) *Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

Conclusion: Staff concluded that the use will not be detrimental to the surrounding neighborhoods because of the low-intensity activities proposed, which are compatible with the character of the neighborhood. Based on the evidence of record, and particularly the fact that the subdivision was designed for this use, the Hearing Examiner also finds that the special exception will not be detrimental to the use, peaceful enjoyment, economic value, or development of the surrounding properties or the defined neighborhood, provided that the special exception is operated in compliance with the listed conditions of approval.

- (6) *Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

Conclusion: Technical Staff found there is "no indication that the proposed use would be detrimental to the use, peaceful enjoyment, economic value or development of adjacent

properties or the general neighborhood.” Exhibit 14(a), p. 11. Based on the record of this case, the Hearing Examiner agrees and so finds.

- (7) *Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.*

Conclusion: Staff determined that an additional equestrian facility on the property would not increase the intensity or scope of special exceptions in the area because this particular use is an “integral part” of the neighborhood, designed as an “equestrian community.” Exhibit 16. The Hearing Examiner finds that this standard has been met, with the conditions recommended in Part V of this Report.

- (8) *Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

Conclusion: The evidence supports the conclusion that the proposed use would not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site.

- (9) *Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.*

Conclusion: Staff and the Planning Board determined that the subject site will be adequately served by existing public facilities (Exhibit 14(a), p. 12) because it proposes no

new structures and will not increase traffic. With the conditions of approval limiting this to personal use, the Hearing Examiner so finds.

- (A) *If the special exception use requires approval of a preliminary plan of subdivision, the Planning Board must determine the adequacy of public facilities in its subdivision review. In that case, approval of a preliminary plan of subdivision must be a condition of the special exception.*
- (B) *If the special exception does not require approval of a preliminary plan of subdivision, the Board of Appeals must determine the adequacy of public facilities when it considers the special exception application. The Board must consider whether the available public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the special exception application was submitted.*

Conclusion: The special exception sought in this case would not require approval of a preliminary plan of subdivision. Because the use generates fewer than 30 new trips, it is exempt from LATR. Nor is it subject to TPAR, which is triggered when there is an expansion of an existing structure. Staff found that, “[T]he proposed use is not likely to negatively impact the safety of vehicular or pedestrian traffic.” Exhibit 14(a), p. 12. The Hearing Examiner agrees and so finds.

- (C) *With regard to public roads, the Board or the Hearing Examiner must further find that the proposed development will not reduce the safety of vehicular or pedestrian traffic.*

Conclusion: Staff determined that the use will be adequately served by existing public roads, as demonstrated by the fact that it is not subject to LATR or TPAR, as did the Planning Board.

C. Specific Standards

The testimony and the exhibits of record, especially the Staff Report (Exhibit 14(a)), provide sufficient evidence that the specific standards required by Section 59-G-2.49 are satisfied in this case, as described below.

Sec. 59-G-2.49. Equestrian facility in a residential zone.

The following provisions apply to an equestrian facility in any residential zone where a special exception is required:

- (a) *Minimum number of gross acres per horse:*
 - (1) *For 1-2 horses, 2 acres;*
 - (2) *For 3-10 horses, one acre per horse;*
 - (3) *For more than 10 horses, an additional one-half acre per horse.*

Conclusion: The subject property consists of 2.76 acres, which is sufficient for the two horses proposed.

- (b) *Each building, show ring, paddock, outdoor arena, and manure storage area must be located at least 100 feet from any existing dwelling on an adjacent tract of land.*

Conclusion: Staff reports that the barn, paddock, and manure storage area are located more than 100 feet from any dwelling. The site plan (Exhibit 4) shows that the manure storage area is located approximately 134 feet from the single-family dwelling on the subject property. Based on the evidence, the Hearing Examiner finds that this standard has been met.

- (c) In order to prevent adverse impact on adjoining uses, the board may limit or regulate:

- (1) The number of horses that may be kept or boarded.
- (2) The number of horses that may be rented out for recreational riding or instruction.
- (3) The number and type of equestrian events that may be held in a one-year period.
- (4) The hours of operation of any equestrian activity or event.

Conclusion: As proposed by the Petitioners, the equestrian facility will be only before their personal use, and that of their family. The conditions of approval reflect this, and prohibit rental of horses and all equestrian events.

(d) Any equestrian facility on less than 5 acres must establish through a pasture maintenance plan, feeding plan and any other document the Board requires, that the property contains sufficient open pasture to ensure proper care of the horses and proper maintenance of the property.

Conclusion: Staff advises that the paddock consists of approximately 2 acres and recommended that, because of the low-intensity of the proposed activities, a formal pasture maintenance and feeding plan need not be submitted in this application. The Applicants provided a supplemental statement indicating that the horses would be fed daily in the winter with hay supplemented with grain in accordance with the instructions of their veterinarian. According to the Petitioners, the horses eat from pasture grass, supplemented with hay, grain, grass, and vitamins in the summer. The stalls and paddock will be cleaned up daily and the manure will composted in the area shown on the site plan; the manure is then used on flower and vegetable gardens by the Petitioners and their neighbors. Because the pasture grass will be supplemented by other food, and having no evidence to the contrary, the Hearing Examiner finds that there is sufficient open pasture to ensure proper care of the horses. There is no evidence that Petitioners plan for feeding the animals will fail to maintain the property, and maintenance of the paddock area is recommended as a condition of this special exception.

(e) All animal waste must be handled in accordance with state requirements for nutrient management.

Conclusion: Staff advises that the Applicants will comply with this requirement. Based on the use as proposed, the Hearing Examiner concludes that this standard has been met.

(f) Any equestrian facility that keeps or boards more than 10 horses must meet all nutrient management, water quality and soil conservation standards of the County and State. A nutrient management plan prepared by a qualified professional and a soil conservation and water quality plan prepared by the Montgomery Soil Conservation District Board must be submitted through a letter of certification by the landowner to the Department of Permitting Services, or other relevant agency. Enforcement of the nutrient management, water quality, and soil conservation plans is the responsibility of the State of Maryland. The land owner must obtain all plans within one year after commencement of operations. Any equestrian facility existing before April 5, 2004 must comply with the requirements of this subsection no later than March 2, 2005.

Conclusion: This standard does not apply to this case as the facility will be limited to two horses.

(g) Any outdoor arena lighting must direct light downward using full cutoff fixtures, not produce any glare or direct light onto nearby properties, and not be illuminated after 10 p.m. except for an equestrian event which must not be illuminated after 9 p.m. Sunday through Thursday. The Board may require that a lighting plan be submitted to Planning Board staff for approval.

Conclusion: The two 45-watt flood lights under the roof edge of the barn are switch activated. Staff advises that they face downward and do not produce glare on adjoining properties. The Hearing Examiner finds that this standard has been met.

D. General Development Standards

Section 59-G-1.23 requires the proposed use to meet the development standards of the existing (and, in this case, proposed) zoning. Staff prepared a table to demonstrate that the proposed use complies with the standards of both the R-200 and RE-1 Zones (Exhibit 16, on the following page).

Current Development Standard: 200	Standard		Proposed
	R-200	RE-1	
Minimum Lot Area	20,000 sf	40,000	120,650sf (2.76 ac±)
Minimum Lot width:			
· @ Front building line	100 ft.	125 ft.	±150 ft.
· @ Street line	25 ft.	25	±60.0 ft.
Minimum Building Setback:			
Front	40 ft.	50	±134 ft.
Side			
▪ One side	12 ft.	17	±20 ft.
▪ Sum of both sides	25 ft.	35	±65 ft.
▪ Rear	30 ft.	35	±280ft
Minimum Setback- Accessory Building (barn)	65	80	±320 ft.
· From street line	7 (25)	10 (25)	±60 ft.
· From Rear Lot line	12	10	±27 ft.
· From a side Lot line	100	100	>200
· From a dwelling on another (barn)			
Maximum Building Height	50 ft.	50ft	<50 (1story +basement)
Maximum Building Coverage			
Including accessory building	30%	50	±3 % (3775 sf)

(b) ***Parking Requirements.*** *Special exceptions are subject to all relevant requirements of Article 59-E.*

Conclusion: The Zoning Ordinance requires no additional parking spaces above the amount required for the residential use of the property. The six on-site parking spaces serve the main dwelling and the accessory apartment. Exhibit 14(a), p. 8. The Hearing Examiner finds that there is sufficient parking to serve the use.

(c) ***Forest Conservation.*** *If a special exception is subject to Chapter 22A, the Board must consider the preliminary forest conservation plan required by that Chapter when approving the special exception application and must not approve a special exception that conflicts with the preliminary forest conservation plan.*

Conclusion: Because no new land disturbance is proposed, this application is not subject to a Forest Conservation Plan and Staff advises that the Planning Department has approved an exemption from that requirement. According to the Staff Report, no forest or specimen trees will be disturbed.

(d) ***Signs.*** *The display of a sign must comply with Article 59-F.*

Conclusion: No sign is proposed in this application.

(f) ***Building compatibility in residential zones.*** *Any structure that is constructed, reconstructed or altered under a special exception in a residential zone must be well-related to the surrounding area in its siting, landscaping, scale, bulk, height, materials, and textures, and must have a residential appearance where appropriate. Large building elevations must be divided into distinct planes by wall offsets or architectural articulation to achieve compatible scale and massing.*

Conclusion: The outbuilding to be used for the barn already exists and the Hearing Examiner finds that it is in harmony with other properties within the equestrian community.

(f) ***Lighting in residential zones.*** *All outdoor lighting must be located, shielded, landscaped, or otherwise buffered so that no direct light intrudes into an adjacent residential property. The following lighting standards must be met unless the Board requires different standards for a recreational facility or to improve public safety:*

- (1) Luminaires must incorporate a glare and spill light control device to minimize glare and light trespass.*
- (2) Lighting levels along the side and rear lot lines must not exceed 0.1 footcandles.*

Conclusion: Staff found that existing lighting on the property (i.e., 2 45-watt switch-controlled floodlights on the barn) is consistent with the residential character of the neighborhood. Because both lights face downward, staff determined that light is unlikely to intrude into adjoining properties. Having no evidence to the contrary, the Hearing Examiner finds that this requirement has been met.

V. RECOMMENDATION

Based on the foregoing analysis, I recommend that Petition No. S-2880, which seeks a special exception for an equestrian facility in a residential zone, to be located at 14400 Chrisman Hill Drive, Boyds, Maryland, be GRANTED, with the following conditions:

1. The Petitioner shall be bound by all testimony and exhibits of record and by the testimony of witnesses and representations identified in this report.
2. All use of the property shall conform to the special exception site plan (Exhibits 4 and 8) and the Landscape and Lighting Plan (Exhibit 5);
3. No more than two horses may be kept on the property;
4. All horses on site must belong to the owners of the property;
5. The Petitioners must not rent any of the horses in the equestrian facility;
6. No equestrian events will be held on the subject property;
7. If required by the Board of Appeals, the Petitioners must file an application to modify the special exception for the accessory apartment on the subject property (S-2551); and
8. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special

exception as granted herein. Petitioners shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

Dated: March 26, 2015

Respectfully submitted,

A handwritten signature in black ink, consisting of a stylized 'L' and 'R' followed by a long horizontal flourish.

Lynn A. Robeson
Hearing Examiner